

## Message Text

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ACTION DLOS-09

INFO OCT-01 IO-13 ISO-00 ACDA-07 AGRE-00 AID-05 CEA-01

CEQ-01 CG-00 CIAE-00 EPG-02 COME-00 DODE-00

DOTE-00 EB-07 EPA-01 ERDA-05 FEAE-00 FMC-01

TRSE-00 H-01 INR-07 INT-05 JUSE-00 L-03 NSAE-00

NSC-05 NSF-01 OES-07 OMB-01 PA-01 PM-04 PRS-01

SP-02 SS-15 USIA-06 AF-10 ARA-10 EA-07 EUR-12

NEA-10 OIC-02 /163 W

-----039850 131927Z /53

R 131552Z JUL 77

FM USMISSION USUN NEW YORK

TO SECSTATE WASHDC 4459

C O N F I D E N T I A L SECTION 1 OF 2 USUN 2232

FROM LOS DEL

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS SITREP - JULY 11, 1977

1. COMMITTEE I. AS THE FINAL WEEK OF THE SIXTH SESSION BEGAN, CONSIDERABLE UNCERTAINTY EXISTED REGARDING THE PROBABLE SHAPE OF THE COMMITTEE I PORTION OF THE COMPOSITE TEXT. ALTHOUGH EVENSEN PREPARED REVISED COMPROMISE TEXTS FOR KEY ARTICLES DEALING WITH THE SYSTEM OF EXPLOITATION, RESOURCE POLICY, ENTERPRISE, REVIEW, ASSEMBLY/ COUNCIL MACHINERY, AND DISPUTE SETTLEMENT, IT IS NOT YET CLEAR THAT ENGO WILL TRANSMIT THOSE TEXTS INTACT TO PRESIDENT AMERASINGHE. FURTHERMORE, THE ISSUE OF A FINANCIAL ARRANGEMENTS TEXT IS STILL BEING HOTLY DEBATE, AND ROMORS PERSIST THAT ENGO WILL INTRODUCE HIS OWN PROPOSAL ON TECHNOLOGY TRANSFER. IN RECENT DAYS, ENGO HAS RECEIVED NUMEROUS REPRESENTATIONS FROM DELEGATIONS (INCLUDING THE U.S.) PLEADING THEIR CASES ON VARIOUS ISSUES.

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2. AS EXPECTED, BAILEY'S (AUSTRALIA) FINAL DRAFT OF HIS FINANCIAL ARRANGEMENTS TEXT (ANNEX I PARA 9) WAS INCOMPLETE. BAILEY CIRCULATED THE PAPER JULY 11. LOOKING BACK ON THE FIRST DRAFT WHICH HE SUBMITTED JUNE 27, THE U.S. IMPACT ON BAILEY'S WORK HAS BEEN VIRTUALLY IMPERCEPTIBLE. SOME OF THE MOST GLARING FEATURES OF THE TEXT INCLUDE:

-- ANNUAL FIXED CHARGE TO MINE (\$1 MILLION PER ANNUM WITH THREE-YEAR GRACE PERIOD);

-- A PRODUCTION CHARGE OR ROYALTY (NO PERCENTAGE SPECIFIED, BUT BASED ON MARKET VALUE OF PROCESSED METALS, RATHER THAN IMPUTED VALUE AS U.S. ARGUED);

-- PROFIT SHARING FROM NET PROCEEDS (RATES AND METHOD OF BASING NET PROCEEDS NOT SPECIFIED, THOUGH U.S. ARGUED STRENUOUSLY FOR PROPORTIONAL PROFITS METHOD);

-- IN COMPUTING NET PROCEEDS EACH YEAR, DEVELOPMENT COSTS WOULD BE "ADJUSTED" DOWNWARD BY THE AMOUNT OF DEPRECIATION CLAIMED TO DATE; THUS, WITHIN A FEW YEARS AFTER COMMENCING PRODUCTION A CONTRACTOR'S RATE OF RETURN WOULD BECOME INFINITE, PLACING HIM IN THE HIGHEST PROFIT-SHARING BRACKET.

3. WHILE IT IS THEORETICALLY POSSIBLE TO FILL IN THE BLANKS IN THE BAILEY TEXT IN A MANNER WHICH COULD MAKE IT ACCEPTABLE, IT WOULD SEEM HIGHLY UNLIKELY THAT SUCH AN OUTCOME COULD IN FACT BE NEGOTIATED IN THE CURRENT CONTEXT.

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4. BAILEY DID ACCEPT THE U.S. PROPOSAL TO REQUIRE THE ENTERPRISE TO TRANSFER ALL OF ITS NET DISPOSABLE INCOME TO THE AUTHORITY ON A QUARTERLY BASIS. HOWEVER, HE HAS RECOMMENDED THAT THIS PROVISION BE INCLUDED IN ANNEX II (STATUTE OF THE ENTERPRISE) RATHER THAN IN ANNEX I PARA 9.

5. THE USDEL IS ADVISING ENGO THAT THE BAILEY EXERCISE REPRESENTED A SIGNIFICANT REGRESSION FROM THE POINT REACHED IN NEGOTIATIONS LAST YEAR ON THIS SUBJECT. WE EXPECT THAT THE U.K., FRG, JAPAN AND FRANCE WILL MAKE SIMILAR REPRESENTATIONS TO ENGO TO ASSURE THAT IF BAILEY'S TEXT IS INCORPORATED BY ENGO, IT HAS WEAK STANDING AND IS ACCOMPANIED BY A CHAIRMAN'S NOTE WHICH INDICATES THAT THE FUNDAMENTAL ISSUES, CONCERNING FINANCIAL ARRANGEMENTS REMAIN DISPUTED, SUBJECT FOR FURTHER NEGOTIATION.

6. COMMITTEE III. THE COMMITTEE HELD AN INFORMAL MEETING ON SCIENTIFIC RESEARCH TO SUMMARIZE RESULTS OF THE SESSION. CHAIRMAN YANKOV SAID HE HAD HAD BROAD CONSULTATIONS AND SAW THE TRENDS AS FOLLOWS. THERE

WOULD BE A CONSENT REGIME FOR ALL SCIENTIFIC RESEARCH  
IN THE ECONOMIC ZONE AND ON THE CONTINENTAL SHELF  
WITH A REQUIREMENT THAT THE COASTAL STATE GRANT CON-  
SENT AS A MATTER OF COURSE EXCEPT FOR CERTAIN  
CATEGORIES OF RESEARCH SUCH AS THOSE RELATED TO RESOURCE  
EXPLOITATION. HE SAID THERE SHOULD BE NO TREATY PRO-  
HIBITION ON PUBLICATION AND THAT ALL REQUESTS FOR  
CONSENT SHOULD BE SUBJECT TO A TACIT CONSENT SYSTEM.  
FINALLY HE SAID THAT ALL DISPUTES EXCEPT THOSE REGARD-  
ING THE EXERCISE OF COASTAL STATE DISCRETION SHOULD  
BE SUBJECT TO BINDING THIRD PARTY SETTLEMENT. THE  
USSR STATED ITS PREFERENCE FOR A COMPLETELY DISCRETION-  
ARY CONSENT REGIME. THE US STATED IT PREFERENCE FOR  
A REGIME IN WHICH CONSENT WOULD APPLY ONLY TO CERTAIN  
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CATEGORICES OF RESEARCH. ALMOST ALL OTHER DELEGATIONS  
SUPPORTED THE CHAIRMAN'S SUMMARY.

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C O N F I D E N T I A L SECTION 2 OF 2 USUN 2232

FROM LOS DEL

7. COMMITTEE II - THE CHAIRMAN (AGUILAR) OF COMMITTEE  
II CONVENED AN INFORMAL MEETING OF THE WHOLE TODAY TO

PRESENT A "SUMMARY OF THE WORK AND OUTCOME OF NEGOTIATIONS" OF THE COMMITTEE DURING THE CURRENT SESSION. HIS PRESENTATION WAS CONCOMITANTLY DETAILED AND PANORAMIC, AND INCLUDED A THOROUGH PERSONAL ASSESSMENT OF THE PROGRESS - OR LACK THEREOF - WHICH HAS BEEN ACHIEVED ON COMMITTEE II MATTERS DURING THE CURRENT ROUND OF NEGOTIATIONS.

8. CONSULTATIVE GROUP I (LEGAL STATUS) - AGUILAR NOTED IMPASSE IN COMMITTEE II ON HIGH SEAS STATUS OF EEZ BUT NOTED WORK OUTSIDE COMMITTEE STRUCTURE WHICH SEEMED TO BE PROGRESSING. THE CHAIRMAN NOTED THAT THERE HAD BEEN "AN IDENTIFICATION" OF PROBLEMS RELATED TO ARTICLES 58, 59 AND 60 (ACCESS BY LL/GDS STATES TO LIVING RESOURCES AN INFERENTIAL INDICATION THAT LITTLE, IF ANY, PROGRESS HAD BEEN ACHIEVED ON THIS ISSUE. HE NOTED MORE WORK WAS NEEDED ON LL TRANSIT TO SEA. IT WAS NOTED THAT

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AGREEMENT HAD BEEN REACHED ON ARTICLE 56 (CATADROMOUS SPECIES), AND PROPOSALS ADVANCED, ALTHOUGH NOT GENERALLY ACCEPTED, ON ARTICLES 50 AND 55.

9. CONSULTATIVE GROUP II (CONTINENTAL SHELF/REVENUE SHARING) - ON THE QUESTION OF SHELF DELIMITATION, AGUILAR SUMMARILY NOTED THAT TWO OPPOSING METHODS HAD BEEN SUGGESTED - THE IRISH FORMULA (SEDIMENT THICKNESS) AND AN ISOBATHIC METHOD OF DEMARCATION (THE JAPANESE PROPOSAL). IT WAS ALSO CONFIRMED THAT THE SECRETARIAT STUDY ON DELIMITATION COULD NOT BE COMPLETED DURING THE CURRENT SESSION AND WOULD, THEREFORE, HAVE TO BE SENT TO EACH DELEGATION AT A LATER DATE, VIA ITS RESPECTIVE UN MISSION. NIGERIA STATED THAT ALTHOUGH IT HAD OPPOSED THE SHELF STUDY FROM THE POINT OF ITS INCEPTION, IT BELIEVED THAT THE SECRETARIAT HAD, IN A PREMEDIATED FASHION, RENEGED ON AN ASSURANCE WHICH IT HAD EARLIER GIVEN TO THE FULL COMMITTEE. ON THE ISSUE OF REVENUE SHARING, THE CHAIRMAN'S SUMMATION CLOSELY PARALLELED THAT PREVIOUSLY GIVEN BY THE CHAIRMAN OF CONSULTATIVE GROUP II (NJENGA) AND ALREADY REPORTED.

10. CONSULTATIVE GROUP III (DELIMITATION) - AGUILAR, RECAPITULATING THE VIEWS OF THE CHAIRMAN OF THE CONSULTATIVE GROUP III, NOTED THAT LACK OF PROGRESS WHICH HAD BEEN MADE ON THE QUESTION OF DELIMITATION BETWEEN OPPOSITE AND ADJACENT STATES. GIVEN THE CHASM EXISTING BETWEEN THE TWO SCHOOLS OF THOUGHT ON THIS ISSUE, HE WOULD, CONSEQUENTLY, BE UNABLE TO RECOMMEND ANY CHANGES TO THE PRESENT RSNT. SPAIN, COLOMBIA, AND LIBYA IN-

TERVENED CHARGING OPPONENTS OF THEIR RESPECTIVE IDEAS  
WITH AN UNWILLINGNESS TO NEGOTIATE. LIBYA FURTHER NOTED  
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THAT PROPONENTS OF THE EQUITY, RELEVANT CIRCUMSTANCES  
SCHOOL HAD SENT AN OFFICIAL MESSAGE TO THE CHAIRMAN  
(AGUILAR) STATING THEIR POSITION AND EXPLAINING THAT IT  
WAS THE ONLY BASIS OF NEGOTIATION SINCE IT COMMENDED THE  
SUPPORT OF A SUBSTANTIAL MAJORITY WITHIN THE CONFERENCE.

11. MISCELLANEOUS ARTICLES - THE CHAIRMAN RECOUNTED IN  
DETAIL THE PROGRESS WHICH HE FELT HAD BEEN ACHIEVED ON  
THE SO-CALLED MISCELLANEOUS PROVISIONS WITHIN COMMITTEE  
II. HE NOTED AGREEMENT ON A NEW ARTICLE PROHIBITING  
SCIENTIFIC RESEARCH IN STRAITS, AND REVIEWED THE REVISED  
ARTICLES ON ARCHIPELAGOES (AGREED WITH INDONESIA LAST  
WEEK) POUCHES SEPARATELY). HE ALSO NOTED THAT LITTLE  
PROGRESS HAD BEEN MADE ON PROVISIONS RELATING TO THE  
REGIME FOR ENCLOSED AND SEMI-ENCLOSED SEAS AND SUGGESTED  
THAT FURTHER NEGOTIATION BY STATE CONCERNED ON THIS ISSUE  
WAS REQUIRED. SPAIN WAS THE ONLY DELEGATION WHICH INTER-  
VENED ON ANY OF THE MISCELLANEOUS ARTICLES AND PREDICTABLY  
STATED ITS OBJECTIONS TO THE REVISED STRAITS ARTICLES.  
THE CHAIRMAN CLOSED THE INFORMAL SESSION BY NOTING THAT  
TODAY'S WAS THE LAST MEETING OF COMMITTEE II SCHEDULED  
FOR THIS SESSION.  
LEONARD

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## Message Attributes

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